



FROM THE COMMITTEE ON MODEL CRIMINAL JURY INSTRUCTIONS

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The Committee solicits comment on the following proposal by January 1, 2017. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov.

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PROPOSED

The Committee proposes an amendment to M Crim JI 23.7, the instruction for violations of MCL 750.175, embezzlement by a public official. The amendment is intended conform the instruction to the statute and eliminate language directing a jury finding on the fourth element. Deletions are in strike-through; new language is underlined.

[AMENDED] M Crim JI 27.3 Embezzlement by a Public Official

(1) The defendant is charged with the crime of embezzlement by a public official. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant either held public office or was the agent or employee¹ of a public official.²

(3) Second, that the defendant received [money / property] in [his / her] official ~~position~~ capacity or employment.

(4) Third, that the defendant knew that the [money / property] was ~~public property~~ received by [him / her] in [his / her] official capacity or employment, and was not received for [his / her] personal use.

(5) Fourth, that the defendant used the [money / property] for [himself / herself] or provided it to any other person for [his / her] use ~~an unauthorized purpose. It is charged in this case that the defendant used the [money / property] for [state purpose]. Such use of public [money / property] is unauthorized.~~

(6) Fifth, that [the property was worth \$50 or more / more than \$50 was involved].

Use Note

¹ The statute makes reference to a “servant” of a public official. That term is no longer commonly used, so the word “employee” has been substituted.

² The terms “agent” and “public official” are defined in M Crim JI 22.5 and 22.19, respectively.